

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL RODMAN,  
Plaintiff,  
v.  
SAFEWAY INC.,  
Defendant.

Case No. 11-cv-03003-JST

**ORDER DENYING MOTION FOR  
HEARING**

Re: ECF No. 310

Currently before the Court is Safeway, Inc.’s motion requesting the Court to take live testimony at the hearing on Plaintiff’s motions to strike the expert reports of Safeway’s experts Joseph Anastasi and David Lewin, Ph.D. ECF No. 310. Safeway objects to Plaintiff’s motions to strike as procedurally improper, but maintains that, if the Court were to consider the merits of the motions, Safeway “should be provided an opportunity to present live testimony from its experts at a properly noticed Daubert hearing.” Id. at 1. Plaintiff opposes the motion for live testimony at the hearing, noting that both experts sat for full day depositions, excerpts of which are included in the record. ECF No. 311 at 1. The hearing on Plaintiff’s motions is currently set for this Thursday, June 30, 2015.

The Supreme Court has held that District courts have “considerable leeway in deciding in a particular case how to go about determining whether particular expert testimony is reliable.” Kumho Tire Co. v. Carmichael, 526 U.S. 137, 152 (1999). Therefore, courts “are not required to hold a Daubert hearing before ruling on the admissibility of scientific evidence.” Millenkamp v. Davisco Foods Int’l, Inc., 562 F.3d 971, 979 (9th Cir. 2009). Because the record contains the challenged experts’ reports and deposition testimony, the Court concludes that live testimony is

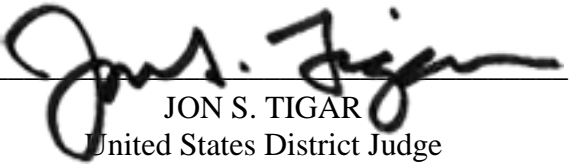
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1 not necessary to further assist the Court in ruling upon Plaintiff's motions to strike. Safeway's  
2 motion requesting live testimony at the hearing on the motions to strike is therefore denied.

3 IT IS SO ORDERED.

4 Dated: July 27, 2015

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6 JON S. TIGAR  
United States District Judge

United States District Court  
Northern District of California